

NATIONAL RAILROAD ADJUSTMENT BOARD
THIRD DIVISIONAward No. 31370
Docket No. MW-32016
96-3-94-3-348

The Third Division consisted of the regular members and in addition Referee John C. Fletcher when award was rendered.

PARTIES TO DISPUTE: (Brotherhood of Maintenance of Way Employees
(Union Pacific Railroad Company

STATEMENT OF CLAIM: "Claim of the System Committee of the Brotherhood that;

- (1) The Agreement was violated when the Carrier assigned Oregon Division Roadway Equipment Operator R. E. Hill to perform overtime service (operating Front End Loader DTL-86) at Durkee, Oregon on the Idaho Division on March 20 and 21, 1993, instead of assigning Idaho Division Roadway Equipment Operator R. S. Gomez thereto (System File R-173/930489).
- (2) As a consequence of the violation referred to in Part (1) above, Idaho Division Roadway Equipment Operator R. S. Gomez shall be allowed twenty-two (22) hours' pay at the Class 2 Roadway Equipment Operator's time and one-half rate."

FINDINGS:

The Third Division of the Adjustment Board, upon the whole record and all the evidence, finds that:

The carrier or carriers and the employee or employees involved in this dispute are respectively carrier and employee within the meaning of the Railway Labor Act as approved June 21, 1934.

This Division of the Adjustment Board has jurisdiction over the dispute involved herein.

Parties to said dispute waived right of appearance at hearing thereon.

The facts in this record support a conclusion that when Claimant's Front End Loader was to be moved from MP 497.50 to MP 386.00 for weekend work on March 20-21, 1993, he was given the opportunity to make the 110 mile trip and operate the equipment on overtime on his rest days, but did not indicate at that time that he wanted to do so. He cannot now come before this Board and seek compensation for the lost overtime work opportunity, and expect to prevail, because an employee from a different seniority district operated "his equipment" on his rest days.

The claim is without merit.

AWARD

Claim denied.

ORDER

This Board, after consideration of the dispute identified above, hereby orders that an award favorable to Claimant(s) not be made.

NATIONAL RAILROAD ADJUSTMENT BOARD
By Order of Third Division

Dated at Chicago, Illinois, this 29th day of February 1996.